



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,639	08/22/2003	Thomas J. Fogarty	ARB-9003	9788

7590
William A. English
Cohen Sakaguchi & English LLP
9th Floor
2040 Main Street
Irvine, CA 92614

EXAMINER

PREBILIC, PAUL B

ART UNIT	PAPER NUMBER
----------	--------------

3738

MAIL DATE	DELIVERY MODE
-----------	---------------

06/19/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/646,639

Applicant(s)

FOGARTY ET AL.

Examiner

Paul B. Prebilic

Art Unit

3738

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,9,10,16,21,29-32,34-39,41-44,46-57,64,74,92-109 and 111-118 is/are pending in the application.
4a) Of the above claim(s) See Continuation Sheet is/are withdrawn from consideration.
- 5) ☒ Claim(s) 96,113,114 and 116-118 is/are allowed.
- 6) ☒ Claim(s) 1,2,9,10,16,21,29-32,34,37-39,41,51-54,56 and 74 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 April 2007 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Continuation of Disposition of Claims: Claims withdrawn from consideration are 3, 4, 5, 11-13, 22, 23, 25-27, 28, 33, 35, 36, 40, 42-50, 55, 57-65 and 75 and claims 92-95, 97-109, 111, 112, and 115

Election/Restrictions

Claims 3, 4, 5, 11-13, 22, 23, 25-27, 28, 33, 35, 36, 40, 42-50, 55, 57-65 and 75 are/were **withdrawn** from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions or species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on May 22, 2006.

Additionally, **claims 92-95, 97-109, 111, 112, and 115** have been **withdrawn** because they are now drawn to a non-elected invention. Specifically, "parachuting" is not possible with ratchets and detents containing fixturing devices as in Figures 49-50 (the elected invention). Also, there is no clear original support or enablement for this combination of species.

Drawings

The drawings were received on April 16, 2007. These drawings are not approved because at least Figures 26 and 27 are not complete. These figures leave out features previously provided, and they appear to present negative new matter in that sewing ring (14) (see Figure 26) is now homogeneous. Figure 27 is clearly missing outside boundaries for the gasket. The Applicant is respectfully requested to review all the drawings for other omissions or additions and resubmit replacement sheets for reconsideration.

Figure 1 to 3 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled

Art Unit: 3738

"Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claims 1, 32, and 37 are objected to because of the following informalities:

On line 12 of claim 1, "the complementary attachment element" lacks clear antecedent basis. "Element" should be changed to ---device---.

On line 12 of claim 1, the use of "comprises" for "the complementary attachment element" or device is confusing because elements thereof were already provided previously in the claim. The Examiner suggests inserting "further" before "comprises" so it is clear that additional features are being presented.

On line 12 of claims 32 and 37, the use of "comprises" for "the complementary attachment element" or device is confusing because elements thereof were already provided previously in the claim. The Examiner suggests inserting "further" before "comprises" so it is clear that additional features are being presented.

Likewise, on line 12 of claims 32 and 37, "the complementary attachment element" lacks clear antecedent basis. "Element" should be changed to ---device---.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 29-31 and 34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. These claims are either directly or indirectly dependent upon cancelled claim 24. For this reason, their scopes cannot be determined and they will not be evaluated on their merits.

The indicated allowability of claims 32 and 37-39 is withdrawn in view of the newly discovered reference(s) to Hill et al and Colvin et al. Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 32 is rejected under 35 U.S.C. 102(e) as being anticipated by Hill et al (US 7,175,659). Hill anticipates the claim language where:

- the gasket body as claimed is the second cylinder (20) of Hill
- the sewing ring as claimed is the valve sleeve (40) made of fabric
- the complementary attachment device as claimed is the guide rod (50)
- the can as claimed is the eyelet (58)

Art Unit: 3738

- the gasket radius is the inner radius of the second cylinder (20); see Figures 7 to 11 and column 5, line 45 et seq.

Claims 1, 2, 9, 10, 16, 21 32, 37-39, 41, 51-55, 56, and 74 are rejected under 35 U.S.C. 102(b) as being anticipated by Colvin et al (US 6,066,160). Colvin anticipates the claim language where:

- the gasket as claimed is the valve (30) of Colvin (see Figure 4)
- the sewing ring as claimed is the sewing ring (30) (see column 9, lines 59-67)
- the skirt as claimed is the portion of the valve (30) extending outside the valve portion of the valve (see Figure 4)
- the gasket radius as claimed is the inside radius of the valve
- the can as claimed is the suture terminating device (10)
- the ratchet tooth as claimed is best seen in Figure 7.

With regard to claim 21, Applicants are directed to column 12, lines 45-50.

With regard to claim 74, the fabric cuff of Example 2 of Colvin covers the gasket in a fully assembled state to the extent required by the present claim language.

Allowable Subject Matter

Claims 96, 113, 114, and 116-118 are allowed over the prior art of record.

Conclusion

Applicant should specifically point out the support for any amendments made to the disclosure, including the claims (MPEP 714.02 and 2163.06). Due to the procedure outlined in MPEP 2163.06 for interpreting claims, it is noted that other art may be applicable under 35 USC 102 of 35 USC 103(a) once the aforementioned issue(s) is/are addressed.

Art Unit: 3738

Applicant is respectfully requested to provide a list of all copending applications that set forth similar subject matter to the present claims. A copy of such copending claims is respectfully requested in response to this Office action if the application is not stored in image format (i.e. the IFW system) or published.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Paul B. Prebilic whose telephone number is (571) 272-4758. He can normally be reached on 6:30-5:00 M-Th.

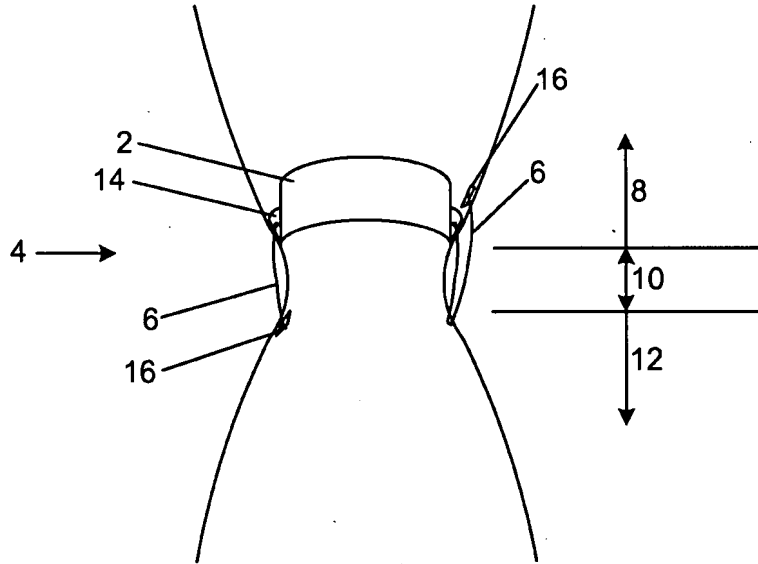
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



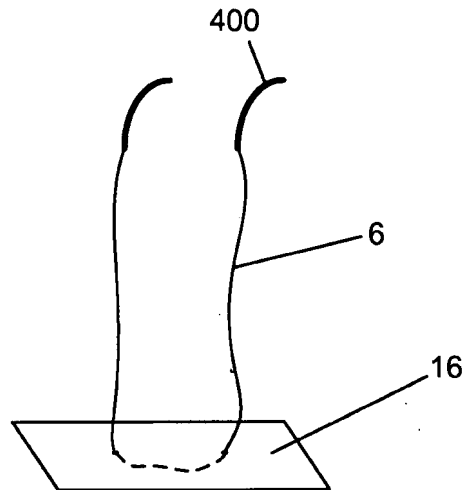
Paul Prebilic
Primary Examiner
Art Unit 3738

All sheets
Not
Entered
PBP
6/4/07



PRIOR ART

Fig. 1



PRIOR ART

Fig. 2